

4/23/15

2:05 p.m.

Chapter No. 487  
15/HR26/R959SG  
est 180

## ***HOUSE BILL NO. 1127***

Originated in House



Clerk

HOUSE BILL NO. 1127

AN ACT TO BE KNOWN AS THE "IRAN DIVESTMENT ACT OF 2015"; TO DECLARE LEGISLATIVE FINDINGS AND INTENT; TO DEFINE CERTAIN TERMS USED IN THE ACT; TO REQUIRE THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF FINANCE AND ADMINISTRATION TO DEVELOP AND PUBLISH A LIST OF PERSONS DEEMED TO BE ENGAGING IN INVESTMENT ACTIVITIES IN IRAN; TO CREATE LIMITED EXCEPTIONS TO THE PROHIBITION AGAINST PUBLIC CONTRACTS WITH PERSONS ENGAGED IN INVESTMENT ACTIVITIES IN IRAN; TO REQUIRE AN ANNUAL REPORT TO BE SUBMITTED TO THE GOVERNOR, LIEUTENANT GOVERNOR AND HOUSE SPEAKER ON THE STATUS AND EFFECT OF THIS ACT; TO PROHIBIT THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM AND THE STATE TREASURER FROM INVESTING WITH PERSONS ENGAGED IN INVESTMENT ACTIVITIES IN IRAN; TO HOLD HARMLESS OFFICERS, EMPLOYEES AND AGENTS OF THE RETIREMENT SYSTEM AND STATE TREASURER'S OFFICE FOR CLAIMS ARISING FROM DECISIONS TO RESTRICT INVESTMENTS UNDER THIS ACT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

**SECTION 1. Short title.** This act shall be known and may be cited as the "Iran Divestment Act of 2015."

**SECTION 2. Legislative findings.** (1) The Mississippi Legislature finds the following:

(a) Congress and the President have determined that the illicit nuclear activities of the Government of Iran, combined with its development of unconventional weapons and ballistic

missiles, and its support of international terrorism represent a serious threat to the security of the United States, Israel and other allies of the United States in Europe, the Middle East and around the world.

(b) The International Atomic Energy Agency has called attention repeatedly to Iran's unlawful nuclear activities, and as a result, the United Nations Security Council has adopted a range of sanctions designed to encourage the Government of Iran to cease those activities and comply with its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons.

(c) On July 1, 2010, President Barack Obama signed into law H.R. 2194, the "Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010" (Public Law 111-195), which expressly authorizes states and local governments to prevent investment in, including prohibiting entry into or renewing contracts with, companies operating in Iran's energy sector with investments that have the result of directly or indirectly supporting the efforts of the Government of Iran to achieve nuclear weapons capability.

(d) The serious and urgent nature of the threat from Iran demands that states, local governments and private institutions work together with the federal government and American allies to do everything possible diplomatically, politically and economically to prevent Iran from acquiring nuclear weapons capability.

(e) Respect for human rights in Iran has deteriorated steadily, as demonstrated by transparently fraudulent elections and the brutal repression and murder, arbitrary arrests and show trials of peaceful dissidents.

(f) The concerns of the State of Mississippi regarding Iran are strictly the result of the actions of the Government of Iran and should not be construed as enmity towards the Iranian people.

(2) The intent of the Legislature is to implement the authority granted under Section 202 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (Public Law 111-195).

**SECTION 3. Definitions.** As used in this act, the following words and phrases have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Energy sector of Iran" means activities to develop petroleum or natural gas resources or nuclear power in Iran.

(b) "Expense" means all explicit costs associated with divesting of investments, including, but not limited to, trading costs, brokerage commissions, and any realized losses, and all implicit costs, including, but not limited to, lost opportunity costs resulting from the prohibition from making certain investments.

(c) "Investment" means a commitment or contribution of funds or property, whatever the source, a loan or other extension

of credit, and the entry into or renewal of a contract for goods or services. The term "investment" does not include indirect beneficial ownership through index funds, commingled funds, limited partnerships, derivative instruments or the like.

(d) "Iran" includes the Government of Iran and any agency or instrumentality of Iran.

(e) "Person" means any of the following:

(i) A natural person, corporation, company, limited liability company, business association, partnership, society, trust or any other nongovernmental entity, organization or group;

(ii) Any governmental entity or instrumentality of a government, including a multilateral development institution, as defined in Section 1701(c)(3) of the International Financial Institutions Act (22 U.S.C. § 262r(c)(3)); or

**SECTION 4. Persons engaged in investments.** For purposes of this act, a person engages in investment activities in Iran if the person provides goods or services valued at Twenty Million Dollars (\$20,000,000.00) or more in the energy sector of Iran, including a person that provides oil liquefied natural gas tankers or products used to construct or maintain pipelines used to transport oil or liquefied natural gas for the energy sector of Iran.

**SECTION 5. Duties of the Executive Director of the Department of Finance and Administration.** (1) (a) Before November 1, 2015, the Executive Director of the Department of

Finance and Administration shall develop or contract to develop, using credible information available to the public, a list of persons determined to engage in investment activities in Iran, as described in this section. If the executive director elects to contract for the development of the list, the list must be developed before November 1, 2015. When completed, the list must be posted on the website of the Department of Finance and Administration.

(b) The executive director shall update the list by July 1st of every year.

(c) Before a person is included on the finalized initial list or updated list, the executive director must do all of the following:

(i) Provide ninety (90) days written notice of the executive director's intent to include the person on the list. The notice must inform the person that inclusion on the list will make the person ineligible to contract with the state. The notice also must specify that the person, if it ceases its engagement in investment activities in Iran, may be removed from the list.

(ii) The executive director shall provide a person with an opportunity to comment in writing that it is not engaged in investment activities in Iran. If the person demonstrates to the executive director that the person is not engaged in investment activities in Iran, the person shall not be included on the list.

(d) The executive director shall make every effort to avoid including a person on the list erroneously.

**SECTION 6. Annual reporting by the Executive Director of the Department of Finance and Administration.** The executive director shall report annually to the Governor, Lieutenant Governor and Speaker of the House of Representatives before October 1 on the status of the federal Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (Public Law 111-195), the "Iran Divestment Act of 2015," and any rules or regulations adopted thereunder.

**SECTION 7. Limitation on the Public Employees' Retirement System and State Treasury Investments.** (1) The Public Employees' Retirement System and the State Treasurer may not invest funds with a person that is identified on a list created pursuant to Section 5 of this act as a person engaging in investment activities in Iran, as described in Section 4 of this act.

(2) Any existing investments in violation of subsection (1) as of July 1, 2015, must be divested when prudent to do so but within one hundred twenty (120) days after the posting is made on the website of the Department of Finance and Administration.

**SECTION 8. Exception to investment prohibition.** Notwithstanding Section 7 of this act, an investment may be made in a person engaged in investment activities in Iran, as described in Section 4 of this act, on a case by case basis, if:

(a) The investment activities in Iran were made before July 1, 2015, the investment activities in Iran have not been expanded or renewed after July 1, 2015, and the person has adopted, publicized and is implementing a formal plan to cease the investment activities in Iran and to refrain from engaging in any new investments in Iran; or

(b) The investor makes a determination that the investments are necessary in order to perform its functions.

**SECTION 9. Limitation of act due to fiduciary obligations.**

Nothing in this act requires the Public Employees' Retirement System of Mississippi or the State Treasurer or their agents to take any action as described in this act unless it is determined, in good faith, that: the action described in this act is consistent with the fiduciary responsibilities of the Public Employees' Retirement System of Mississippi or the State Treasurer or their agents; and there are appropriated funds of the state to absorb the expenses necessary to implement this act.

**SECTION 10. Indemnification of employees and officials for compliance with this act.**

Present, future and former board members, officers, employees and agents of the Public Employees' Retirement System and the Department of Finance and Administration, as well as present, future and former State Treasurers, officers and employees of the State Treasurer and agents retained by the State Treasurer, must be indemnified from the State General Fund and held harmless by the state from all



claims, demands, suits, actions, damages, judgments, costs, charges and expenses, including court costs and attorney's fees, and against all liability, losses and damages of any nature whatsoever that these present, future or former board members, officers, employees, agents or contract investment managers shall or may at any time sustain by reason of any decision to restrict, reduce or eliminate investments pursuant to this act.

**SECTION 11. Continued application of this act.** The restrictions established under this act apply only until:

(a) The President or Congress of the United States, by means including, but not limited to, legislation, executive order or written certification, declares that divestment of the type provided for in this act interferes with the conduct of United States foreign policy; or

(b) The United States revokes its current sanctions against Iran.

**SECTION 12. Notice to the Attorney General of the United States.** The Secretary of State, in consultation with the Mississippi Attorney General, shall submit to the Attorney General of the United States a written notice describing this act before August 1, 2015.

**SECTION 13. Severability.** If any section, subsection, paragraph, subparagraph, sentence, clause, phrase or word of this act is for any reason held to be unconstitutional or invalid, the holding shall not affect the constitutionality or validity of the

remaining portions of this act. The Legislature hereby declares that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases or words thereof may be declared to be unconstitutional, invalid or otherwise ineffective.

**SECTION 14.** This act shall take effect and be in force from and after July 1, 2015.

PASSED BY THE HOUSE OF REPRESENTATIVES  
March 31, 2015



SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE  
April 1, 2015



PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR

  
GOVERNOR

4/23/15  
2:05pm